

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 1st day of
March, 2007.

In the Matter of the Application of Northwest Missouri Cellular Limited Partnership for Designation as a Telecommunications Company Carrier Eligible for Federal Universal Service Support Pursuant to § 254 of the Telecommunications Act of 1996.)
)
) **Case No. TO-2005-0466**
)
)

ORDER GRANTING MOTION TO AMEND REPORT AND ORDER

Issue Date: March 1, 2007

Effective Date: March 11, 2007

On January 25, 2007, Northwest Missouri Cellular Limited Partnership filed a motion requesting that the Commission amend its Report and Order issued on September 21, 2006, to include language that will clarify the service area for which it designated NWMC as an eligible telecommunications carrier for federal Universal Service Fund purposes. No response to the motion was received.

Because NWMC sought eligible telecommunications carrier status in an area served by a rural telephone company, and seeks that status for an area other than the rural carrier's entire study area, 47 CFR 54.207 requires that the service area of Alltel Missouri, Inc., Grand River Mutual Telephone Corporation, and Sprint Missouri, Inc.,¹ be redefined in order for NWMC to be eligible to receive federal universal service support. The Commission intended for its order to specify the service areas in which NWMC was designated as

¹ Sprint Missouri, Inc., has changed its name to Embarq Missouri, Inc., but was referred to in the Report and Order, and will continued to be referred to, as "Sprint."

an ETC and make the redefinitions as necessary. The order, however, was not clear on these points. Therefore, the Commission hereby clarifies and amends its Report and Order to include the following findings and conclusions.

Cream Skimming

Although not specifically included within any of the disputed issues in this case, the issue of “cream skimming” must be addressed because of NWMC’s request to redefine the Alltel² and Grand River Mutual³ and Sprint⁴ service areas for the purpose of the competitive ETC designation.⁵ Cream skimming occurs when a competitive ETC serves only the lower cost portions of an incumbent local exchange carrier’s study area but receives support calculated in relation to unserved, higher-cost portions of the study area. In its *Virginia Cellular*⁶ and *Highland Cellular*⁷ orders, the FCC held that where the population densities of the entire ILEC study area are significantly lower than the population density within the ETC service area, cream skimming has occurred. In the present case, no cream skimming has occurred.

² NWMC proposes to redefine the Alltel service area to allow NWMC to be designated as an ETC in only the Albany and Grant City wire centers as well as substantially all of the Allendale wire center. (Application ¶11.)

³ NWMC proposes to redefine the Grand River Mutual service area to allow NWMC to be designated as an ETC in the Barnard, Conception Junction, Denver, Darlington, Gentry, Graham, New Hampton, Parnell, Ravenwood and Sheridan wire centers. (Application ¶12.)

⁴ NWMC proposes to include the following Sprint wire centers within its proposed ETC service area: Craig, Fairfax, Hopkins, King City, Maryville, Mound City, Pickering and Tarkio wire centers. (Application ¶12.)

⁵ As explained in detail in the Application, NWMC is not seeking to redefine the study area for any rural LEC; NWMC is merely seeking to redefine several LEC service areas for the limited purpose of designating a competitive ETC. (Application ¶13.)

⁶ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Application for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338 (rel. January 22, 2004).

⁷ *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004).

Specifically, witness Jonathan Reeves established that:

In the case of the proposed redefinition of the Alltel service area in Zone 1, the population density in the proposed NWMC service area is 21.54 people per mile as compared to Alltel's Zone 1 study-wide average population density of 32.61 people per square mile;

The single Allendale wire center proposed for inclusion in NWMC's ETC service area from Alltel's Zone 3 study area is the most rural wire center in that entire study area, having a population density of 4.64 persons per square mile as compared to the population density of 12.90 persons per square mile for the entire Zone 3 study area;

The average population density for the Grand River wire centers proposed for inclusion within the NWMC service area is 8.35 persons per square mile, slightly below the overall population density of Grand River's Zone 2 which is 8.48 persons per square mile;

The Sprint wire centers included within the proposed NWMC ETC service area have an average population density of 27.39 persons per square mile as compared to an overall study area population density of 54.00 persons per square mile; and

In each and every instance where NWMC seeks redefinition of the ILEC service area, the population densities within the portions of those study areas sought to be included in the NWMC ETC service area fall below the overall population densities upon which the LEC level of support has been based.⁸

Thus, the Commission determines that under the population density analysis, there is no cream skimming.

Even if this were not the case, the FCC has formulated a procedure to virtually eliminate the concern of cream skimming, even where the population density might not be as it is in the present case:

[A]s the Commission concluded in Universal Service Order, the primary objective in retaining the rural telephone company's study area as the designated service area of a competitive ETC is to ensure that competitors will not be able to target only the customers that are the least expensive to serve and thus undercut the incumbent carrier's ability to provide service to the high-cost customers. Rural telephone

⁸ Direct Testimony of Jonathan D. Reeves ("Reeves Direct") 4:17 – 6:15.

companies now have the option of disaggregating and targeting high-cost support below the study area level so that support will be distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service. Therefore, any concern regarding “creamskimming” of customers that may arise in designating a service area that does not encompass the entire study area of the rural telephone company has been substantially eliminated.⁹

Consequently, even if NWMC were not able to demonstrate that cream skimming is not an issue based on population density, there would be no basis to find that cream skimming exists.

Redefinition of Service Areas

The Commission has designated NWMC as an eligible telecommunications carrier in the non-rural study areas of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, and CenturyTel of Missouri, and the complete rural study area of Northwest Missouri Cellular Limited Partnership. Further, the Commission designated NWMC an ETC in the partial study areas of Alltel, Grand River Mutual, and Sprint. For these partial rural study areas, pursuant to Section 214(e)(5) of the Communications Act of 1934, *as amended*, and Federal Communications Commission (FCC) Rule 54.207, the Commission designated NWMC as an ETC in the complete wire centers as follows:

Alltel Missouri
Albany
Grant City
Allendale

⁹ *Petitions for Reconsideration of Western Wireless Corporation’s Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 19144, 19149 (2001) (emphasis added, footnotes omitted). See also *Pine Ridge*, *supra*, 16 FCC Rcd at 18141, where the FCC used identical language in designating Western Wireless as an ETC for an area that is less than the ILEC’s entire study area.

Grand River Mutual

Barnard
Conception Junction
Denver
Darlington
Gentry
Graham
New Hampton
Parnell
Ravenwood
Sheridan

Sprint Missouri

Craig
Fairfax
Hopkins
King City
Maryville
Mound City
Pickering
Tarkio

The Commission finds that: (1) NWMC's redefinition will not result in cream skimming; (2) the rural carriers whose service areas NWMC seeks to redefine will not be harmed by the redefinition of their study areas to conform to NWMC's licensed service area; (3) the rural carriers whose service areas NWMC seeks to redefine will not be required to recalculate costs as a result of a service area redefinition; and (4) no other administrative burdens have been placed on the rural carriers whose service areas NWMC seeks to redefine as a result of a service area redefinition. Accordingly, the Commission approves NWMC's request to redefine the service areas of Alltel, Grand River Mutual, and Sprint.

IT IS ORDERED THAT:

1. The Motion to Amend Report and Order filed by Northwest Missouri Cellular Limited Partnership on January 25, 2007, is granted.

2. The Report and Order issued on September 21, 2006, is hereby amended as set out above to redefine the service areas of Alltel Missouri, Inc., Grand River Mutual Telephone Corporation, and Sprint Missouri, Inc.¹⁰

3. This order shall become effective on March 11, 2007.

4. This case may be closed on March 12, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge

¹⁰ Now known as Embarq Missouri, Inc.